

APPEAL NO. 010589

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on November 14, 2000, and on February 27, 2001, the hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant appeals, asserting that his testimony, as corroborated by his medical records, met his burden of proof on these issues. The respondent (carrier) urges in response that the evidence is sufficient to support the challenged determinations.

DECISION

Affirmed.

The claimant testified that he injured his back on _____, while pulling lumber from a machine being operated by his supervisor, Mr. G. Mr. R, a superintendent, testified that no such injury was reported to him by Mr. G; that the claimant failed to show up for work on June 26; and that the claimant's employment was terminated on June 27 for excessive absenteeism, the claimant having been previously warned that continued absences would result in the termination of his employment.

The claimant had the burden of proof on the issues and it is well settled that the claimant's testimony alone may be sufficient to prove compensable injury and disability issues. However, the testimony of a claimant is not binding on the hearing officer who is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and who, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). We are satisfied that the challenged findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Susan M. Kelley
Appeals Judge